

I. *A Copy of an Ancient Chirograph, or Conveyance of Part of a Sepulchre, cut in Marble, lately brought from Rome, and now in the Possession of Sir Hans Sloane, Bart. R. S. Pr. with some Observations upon it by Roger Gale, Esq; V.P. R. & Tr. R. S.*

1 Dijs Manibus
2 Marci Herennij
3 Proti, vixit annos viginti duos
4 Menses duos, Dies quinque, fecerunt Parentes
5 Marcus Herennius Agricola et
6 Herennia Lacena Filio.
7 Chirographum. Ollaria numero quatuor
8 Cineraria quinquaginta tria intransibus par-
9 te læva quæ sunt in monumento
10 Titi Flavij Artemidori, quod est Viâ
11 Salaria in agro Volusi Basilides
12 lentibus ab Urbe parte sinistra, Do-
13 nationis causa Mancipio accepit
14 Marcus Herennius Agricola de Tito Flavio
15 Artemidoro Sestertio nummo Uno, Libripende Marco
16 Herennio Justo, Antestatus est Tiberium
17 Julium Erotem: Inque vacuam
18 Possessionem earum ollarum
19 Et Cinerariorum Titus Flavius Arte-
20 midorus Herennio Agricola ire
21 Aut mittere, ossaque inferre per-
22 misit, sacrumque quotiens face-
23 re vellit Herennius Agricola
24 Heredesve ejus permisit, Clavisve
25 Ejus monumenti potestatem factu-
26 rum se dixit, dolumque malum
27 Huic rei abesse afuturumque :
28 Se hæc rectè Dari, fieri præstari-
29 que stipulatus est Marcus Herennius
30 Agricola, spepondit Titus Flavius
31 Artemidorus. Actum 18^o Kalendas Januarij
32 Caio Calpurnio Flacco, Lucio Trebio
33 Germano COS.

E e

THIS

THIS Marble, lately arrived from *Rome*, and now repositied in the noble Musæum of Sir *Hans Sloane*, is a most valuable Piece of Antiquity, as exhibiting a compleat *Formula* of a *Chirograph*, or Conveyance of one Part of a Burying-Place from one Family to another, but neither of them of any Note, seeming by their *Agnomina* to have been only *Liberti*, or descended from such. *Agricola* indeed is a *Roman* Name, but those of his Wife *Lacena*, and his Son *Protus*, are both *Greek*.

By this *Chirograph* (Line 7th, 8th, &c.) *Herennius Agricola* obtains from *Titus Flavius Artemidorus*, a Right to four *Ollaria*, which were *Niches* or *Repositories*, wherein they placed *Cineraria*, *Urns*, or *Vessels* of *Stone*, or *Earth*, containing the *Ashes* of the *Dead*, and were here in Number Fifty-three.

Fabretti^a indeed takes the *Cineraria* to have been *Niches* for receiving and keeping *Urnas lapideas*; but *Gutherius de Jure Manium* (Lib. II. c. 24.) tells us, that *Ossuariae olle à Cinerariis in eo differunt, quod hæ Cineres, illæ ossa exciperent*. Besides, if they were *Niches*, or the same as *Ollaria*, the mentioning of them, as in this Inscription, would be an unintelligible Tautology; and *Spon* (in his *Miscell. Antiq. Erudit.* p. 290.) gives us the following Inscription, which seems to put the Matter out of Dispute.

Romæ, in Operculo Vasis.

CINERARIUM

GEMELL. III. AELI

MARCI ET PHILIPPI

^a Inscript. ant. in ædibus pat. p. 16, 17.

From both which Authorities it is evident, that the *Cineraria* were *Vasa*, and not Repositories for them.

This Monument was situated on the left Side of the *Via Salaria*, which ran to the North-west of *Rome* from the *Porta Collina*. It stood in the Ground of *Volusus Basilides*, and the Consideration for the Conveyance of it is one *Sesterce*. It is very usual in sepulchral Inscriptions to find the Monument of one Family in the Field of another, the Proprietor of the Monument reserving the Right of that to himself when he sold the Ground; or purchasing so much Ground from the Owner as was sufficient for erecting the Monument. All Sepulchres, when once a Body was interred therein, were esteemed as Religious and Sacred, and were not to follow the Possession of the Field.

*Mille pedes in fronte, trecentos cippus in agrum
Hic dabat, Hæredes monumentum ne sequeretur.*
Hor. 1. Sat. 8.

Line 11. *Basilides* is a Blunder for *Basilidis* in the Genitive Case; and we shall meet with more of them before we get through this Inscription.

Line 11, 12. The Words *Donationis causa mancipio accepit M. Herennius Agricola de Tito Flavio Artimodoro* IIS N. I. are to be read *Sestertio Nummo Uno*, as is evidently demonstrated from the following Inscription, where you have also the rest of the Words of this Form of Conveyance. There is likewise in *Gruter*^a an Inscription, where-

^a P. DCCCCLVI. 4.

in the Words SESTERTIO NUMMO UNO are express'd at length.

HOC. MONVMENTVM. SIVE
SEPVLCVRVM. CVM. AREA. SVA
T. FVFFICIVS. FELIX. DE
IVLIA. RVFINA. DONATIONIS
CAVSA. MANCIPIO. ACCEPIT
II S. N. VNO. QVOD. COMPARAVIT
FVFFICIAE. AMPLIATAE
CONIVGICARISSIMAE, &c.

They were *Verba solennia Donationis vel Alienationis causâ quæ fiebat per Mancipium*. This *Mancipation* was often a fictitious Sale of a thing, to make the Donation of it valid, as in this Case: And the Mention of one Sesterce given for it, is only *Dicis gratiâ*, much like our Form in Leases for putting into Possession, *In consideration of five Shillings in Hand paid*. Frequent Examples occur of this Practice, as in the Inscription just now quoted from *Fabretti*^a, and others in the same Author; and in *Gruter* (p. DCCCLVI. 4. and MLXXXI. I.) which latter is a compleat *Formula* of a like sepulchral Conveyance as this, but of a later Time, and not so well preserved; it being executed when the Emperor *Trebonianus Gallus*, and his Son *Volusianus*, were Consuls, A. D. 252; and ours probably, as will be shewn hereafter, during the Reign of *Septimius Severus*.

^a Inscript. ant. in æd. pat. p. 50.

Line 15.) LIBRJ PENDE is cut in our Marble as two distinct Words, as here represented, though in reality it should be but one, and signifies the Person that weighed or counted over the Money to the Seller : It should be read LIBRIPENDE, than whom there could not be a more proper Witness to the Purchase. At the beginning of the *Roman* State their Money was uncoined, and called *Æs rude*, or *grave*, therefore paid by *Weight* ; whence comes the Word *Libripens*. Under *Servius Tullius* their sixth King, it begun to be coined, and paid by *Tale* ; but the Person who counted it over to the Receiver, still retained his primitive Appellation. Almost every considerable Town had its *Libripendes*, Persons of Skill in Money-Affairs, to determine Controversies about the Value of it.

An Inscription in *Gruter* (p. MCXV. I.) is a strong Evidence of this : It was found at *Nola* in *Campania*, and shows they had two *Libripendes* there appointed by publick Authority.

T. VEDIVS. T. F.
T. VITORIVS. CN. F
II. VIRI
LIBRIPENDES
EX. DD.

This Name they had, *Quia libram aeneam tenebant quâ nummos penderent* ;

— *Libra mercatus & Ære.* Hor. Epist. II. 2.

And

And hence we have the Words *Stipendium, Dispendium, Expensæ*, and the like. In *Apuleius's Metamorph.* Book Xth, is the following Passage : — *Sed ne fortè aliquis, inquam, istorum quos offers Aureorum, Nequam vel Adulter reperiatur, in hoc ipso sacculo conditos eos annulo tuo prænota, donec altero die Nummulario præsentem comprobentur*, where this *Nummularius* seems to be the same as the *Libripens*, who was generally called in to count over and examine the Money at Payments for Purchases, though sometimes a private Person or Friend to the Parties might probably perform this Office for them, and be an Evidence, upon Occasion, to the Facts : To which end also they used to adhibit another Witness, as *Herennius Agricola* does here, who was one *Tiberius Julius Erotes*, and sometimes they added five more. The Form and Manner of doing it, was by asking a By-stander, *Licetne antestari* ? If he consented, the Demandant touched, or pulled, the lower Part of his Ear, as a Memorandum of what passed ; whence *Horace* in his IXth Satire,

— — casu venit obvius illi
Adversarius, & quo tu turpissime ? magnâ
Exclamat voce, & Licet Antestari ? ego verò
Oppono Auriculam———

By the Law of the XII Tables, if he that was called to testify in this manner, or the *Libripens* refused afterwards to give his Evidence in the Case, they were adjudged infamous. *A. Gel.* l. xv. c. 14.

Line 18.) *EARVM OLLARVM* seems to be a Mistake for *EORVM OLLARIOVM*.

Line

Line 20 to 27.) are Covenants usual upon this Occasion, as may be seen in the like sepulchral Contracts, particularly the before-mentioned in *Gruter* (p. MLXXXI. 1.) and many other Donations and Orders about Monuments in his voluminous Collection; as also in *Fabretti*, and *Reinesius*.

Line 28.) SE seems to have been a Blunder of the *Marmorarius* for SIBI, SE DARI being perfectly ungrammatical. But in the Contract aforesaid, given us by *Gruter*, the Words run, *De ea re dolum malum abesse, afuturumque a te, Hærede tuo, & ab his omnibus ad quos ea res pertinebit, hæc SIC rectè dari, fieri, præstarique stipulatus est*; which inclines me rather to believe, that SE in ours ought likewise to have been SIC. There are many palpable Mistakes in it, as I have before observed, as in Line the 23d VELLIT for VELIT, and CLAVISVE for CLAV.SQVE, in the 24th.

The Roman Lawyers tell us, that *Stipulatio erat Interrogatio certis, solennibusque verbis concepta; & apta, consentaneaque responsio, veluti spondes? spondeo. Dabis? Do.* This is fully confirmed both in ours, and the *Gruterian* Contract, (p. MLXXXI. 1.) *Stipulatus est Marcus Herennius Agricola: Spondit T. Flavius Artemidorus: In the latter. Stipulatus est Licinius Timotheus: Spondit Statia Irene.* The learned Mr. *Mattaire* observes from *Aulus Gellius* (Lib. vii. c. 9.) that ancient Authors used *e* instead of *o*, in those Verbs which have a Reduplication [*in præterito tempore*] as *memordi*, *peposci*, *spondi*, for *momordi*, *poposci*, *spospondi*, used by more modern Writers; so that SPEPONDIT is no Mistake, but an Archaismus, as may be the Word IEN.

IENTIBVS in the 12th Line ; though it has not had the good Fortune to have been remarked, as the latter. *Iens* in the Nominative Case was used more than once by *Cicero* ; and though he declines it, like all other Authors now in being, *Euntis*, *Eunti*, &c. yet it might originally have been declined *Ientis*, *Ienti* ; but as there is now no Authority extant to warrant it, this must pass as meer Conjecture.

Line 32.) There are no such Names to be found in any of the *Fasti Consulares* as *C. Calpurnius Flaccus* and *Lucius Trebius Germanus* ; so they must have been not the *Consules Ordinarij* of the Year, but *Suffecti*. It is very strange that the *Romans* should so long adhere to this troublesome and uncertain Method of Computation by Years of their Consuls, since they had frequently several Pairs of them in the same Year, especially after they fell under the Imperial Government. Some reckoned by the ordinary Consuls, who came into their Office upon the first of *January*, about 600 Years after the building of *Rome* ; for 'till that Time the Month of their entring upon that Dignity was not fix'd ; and others computed by the *Suffecti*, who might come in several Months after, as Vacancies happened, or as they were appointed by the Emperor, tho' their Names were seldom inserted in the *Fasti*. Besides this, it was impossible for any Man to remember how many Years were elapsed from the present Time upwards, to such and such Consuls, without Tables of their Succession, or having Recourse to some other Æra, as the A. V. C. *anno Urbis conditæ*, which they do not seem to have much regarded.

In *Gruter* (p. XLVI. 9.) is a long Inscription, mentioning TREBIVS GERMANVS, (though not as Consul,) in the Reign of *Septimius Severus* ; and another (p. CCCCLXXXII. 7.) of C. CALPURNIVS FLACCVS : If these Men were the Consuls here referred to, as they might be, the Age of our Marble will be ascertained within a few Years.

The Stone is turned with an Arch at Top ; the whole Length of it is 27 Inches and a half ; the Breadth at the Bottom of it is ten Inches and a half, and at the Base of the Arch twelve Inches and a quarter, it widening gradually upwards. The Letters are cut in a small indifferent Character ; that of the E and the F are remarkable, being always formed in this manner E. f. * It was probably placed over or between the four *Niches*, or OLLARIA granted to *M. Herennius Agricola* in this Monument by *T. Flavius Artemidorus*, in order to declare and assert the Right and Possession of them to the former, and his Family, 'till they were all filled.

* As will appear by examining the engraved Copy of it in the Plate prefixed to this Transaction, which is taken very exactly to all the Dimensions by a Seal of half the original Size.

D

M

M·HERENNI·
PROTI·V·A·XXII

MII DV SECERVNT PARENTES
M HERENNIVS AGRICOLA ET
HERENNIA LACENA FILIO
CHIROGRAPHVM OLLARIAN IIII
CINERARIAN·LIII· INTRANTIBVS PAR
TE LAEVA QV ESUNT IN MONVMENTO
T FLAVI ARTEMIDORI QVOD EST VIA
SALARIA IN AGRO VOLVSI BASILIDES
IENTIBVS AB VRBE PARTE SINISTRA DO
NATIONIS CAUSA MANCIPIO ACCEPIT
M·HERENNIVS AGRICOLA DET FLAVIO
ARTEMIDORO TTS N·T LIBRI PENDE M·
HERENNIO IVS TO ANTES TATVS EST TI
IVLIVM·EROTEM INQVE VACVAM
POSSESSIONEM FARVM OLLARVM
ET CINERARIORVM T FLAVIVS ARTE
MIDORVS HERENNIO AGRICOLE IRE
AVT MITTERE OSSA QVE INFERRE PER
MISIT SACRVM QVE QVOTIENS FACE
RE VELLIT HERENNIVS AGRICOLA
HEREDES VE EIVS PER MISIT CIAVIS VE

23

REVELLIT HERENNIVS AGRICOLA

24

HEREDES VE EIVS PERMISIT CLAVIS VE

25

EIVS MONVMENTI POTESTATEM FACTV

26

RVMS EDIXIT DOLVM QVEM ALVM

27

HVIC REI AB ESSE AVTV RVMOVE

28

SE HAEC RECTE DARI FIERI PRAESTARI

29

QVESTI PVLATVS EST M. HERENNIVS

30

AGRICOLA SPEPONDIT FLAVIVS

31

ARTEMIDORVS ACT. XVIII KIANVAR

32

C. CALPV RNIO FLACCO TREBIO

33

GERMANO @S


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M. HERENNI
PROTIV. A. XXII

MII DV FECERVNT PARENTES

M. HERENNIVS AGRICOLA ET
HERENNIA LACENA FILIO
CHIROGRAPHVM OLLARIAN IIII
CINERARIAN. LIII. INTRANTIBVS PAR
TE LAEVA QVÆ SVNT IN MONVMENTO
T. FLAVI ARTEMIDORI QVOD EST VIA
SALARIA IN AGRO VOLVSI BASILIDES
IENTIBVS AB VRBE PARTE SINISTRA DO
NATIONIS CAUSA MANCIPIO ACCEPIT
M. HERENNIVS AGRICOLA DET. FLAVIO
ARTEMIDORO TIS N. I. LIBRI PENDE. M.
HERENNIO IVS TO ANTES TATVS EST. TI
IVLIVM. EROTEM INQVE VACVAM
POSSESSIONEM FARVM OLLARVM
ET CINERARIORVM T. FLAVIVS ARTE
MIDORVS HERENNIO AGRICOLE IRE
AVT MITTERE OSSA QVE INFERRE PER
MISIT SACRVM QVE QVOTIENS FACE
RE VELLIT HERENNIVS AGRICOLA
HEREDES VE EIVS PERMISIT CLAVIS VE
EIVS MONVMENTI POTESTATEM FACTV
RVMS EDIXIT DOLVM QVE MALVM
HVIC REI ABESSE AVTVRVM QVE
SE HAEC RECTE DARI FIERI PRAESTARI
QVESTI PVLATVS EST. M. HERENNIVS
AGRICOLA SPEPONDIT. T. FLAVIVS
ARTEMIDORVS ACT. XVIII KIANVAR
C. CALPV RNIO FLACCO T. TREBIO
GERMANO @S